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Subject: Municipalities; Streets and Highways; Speed Bumps

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Question: (1) What authority, if any, does the municipality have to place raised mounds for "speed bumps" in streets as traffic control measure?

(2) Is the municipality liable for damages in the event of injury been if painted, readily visible signs are posted giving notice of such bumps?

(3) Would a person be denied recovery by his own negligence if it could be shown that he exceeded the speed limit and no damage would result if a vehicle could be driven across the "bumps" at a speed within the speed limit without any damage?

Conclusions: (1) Although the municipality has authority to regulate and control traffic on municipal streets under the authority of G.S. 160A-296 and G.S. 160A-300, it has no authority to place "speed bumps" in the street which may obstruct traffic.

(2) The municipality may be held liable for injuries occasioned by the placing of "speed bumps" in the roadway in violation of its duty to keep the streets free of obstructions. The facts in each case of an accident would determine the municipality's liability. Although the defense of contributory negligence may be available against a driver of a vehicle, it may not be available to the City as against injured passengers of such vehicles or others injured thereby.

(3) The answer is the same as Conclusion (2)

There appear to be no North Carolina cases concerning a municipality's use of "speed bumps" as a traffic control device. However, in our opinion, the reasoning expressed by the Mississippi Supreme Court concerning "speed bumps" for the control of traffic is applicable. In the case of *Vicksburg v. Harralson*, 136 Miss. 872, 101 So. 713, 39 ALR (1924), the municipality was held liable for negligently erecting and maintaining a "bumper" in the street for the purpose of slowing vehicular traffic and warning of a dangerous intersection. The court is quoted in that case as follows:

"We do not think the city had a right to place a dangerous device or obstruction in its street making it unsafe, and which would likely injure persons traveling in automobiles over it.

"This scheme or method of warning drivers appears to us to be unreasonable, too drastic, and perilous for the purpose intended. The method of injuring one person in order to prevent damage to another is wrong in principle, as we see it, and is not such a reasonable regulation for the public safety as is warranted under the law, but is negligence. Creating one danger to prevent another is not in accord with the public safety."

A municipality has authority under the provisions of G.S. 160A-296 and G.S. 160A-300 to regulate and control traffic by traffic control devices. The placing of "speed bumps" in the roadway to control traffic where it is likely to cause injury appears to be an unreasonable traffic control device. The municipality also has the duty of keeping the streets free from unnecessary obstructions. G.S. 160A-296. A municipality does not have the discretionary power to put obstructions in its streets which are likely to injure travelers and it may be liable to one injured by "speed bumps" placed in the street by the municipality. *Graham v. Charlotte*, 186 N.C. 649. G.S. 160A-296.

Questions concerning liability imposed are troublesome questions which are continually arising in determining how far a court will go in declaring certain conduct of a defendant negligent or not negligent and certain conduct of a plaintiff contributory negligent, or not contributory negligent. The facts in each case would determine the municipality's liability. 40 CIS Highway, Section 257; 39 Am.Jur.2d, Highways par. 486, p.881. The driver of a vehicle where the "speed bumps" are posted as described in questions (2) and (3) may be barred from recovery by contributory negligence on his part. However, passengers in the vehicle and others injured thereby may not be. When two causes combine to produce an injury to a traveler on a highway, both of which are in their nature proximate - the one being a comparable defect in the highway, and the other some other occurrence for which neither party is responsible- the municipality is liable, provided that the injury would not have been sustained but for such defect. *Dillon v. Raleigh*, 124 N.C. 184